

REMARKS

I. Status of the Claims of Patent Application

In total, there are presently 21 claims pending in the application comprising claims 1-2, 4-20, and 67-68. Of these claims, six are presented for consideration in independent form.

II. Summary of the Office Action

In the present Office Action, claims 1-2, 4-11, 16-20, and 67-68 are rejected "under 35 U.S.C. §103(a) as being unpatentable over Jiang (hereinafter 'Jiang', 6,167,432) in view of Aras et al (hereinafter 'Aras', 5,867,653)." Office Action at page 2. Claims 12-13, 15 are rejected "under 35 U.S.C. §103(a) as being unpatentable over Jiang in view of Aras and further in view of Sammon et al. (hereinafter 'Sammon', 6,563,914)." *Id.* at page 13. Finally, claim 14 is rejected "under 35 U.S.C. §103(a) as being unpatentable over Jiang in view of Aras and Sammon and further in view of Pinard et al (hereinafter 'Pinard', 5,940,834)." *Id.* at page 14.

III. Examiner Interview

On December 23, 2004, the undersigned attorney spoke with Examiner Meky, who indicated that he will take over the prosecution of the present application once a Request for Continued Examination ("RCE") is filed by the applicant with a reply to the pending Office Action that presents arguments. At that time, the undersigned attorney confirmed with the examiner that responding with arguments alone would be sufficient for filing the RCE. Accordingly, applicant submits the present RCE and Reply to Final Office Action for the examiner's consideration.

IV. Summary of the Reply

This reply reiterates and summarized arguments previously presented in an Amendment filed on July 7, 2004 and February 26, 2004. Reconsideration and withdrawal of the rejections based on the foregoing is respectfully requested.

V. Obviousness Rejections are Contrary to the Teachings of the Cited Art

The rejections issued in the Office Action under 35 U.S.C. §103 are not sufficient to establish obviousness by a preponderance of the evidence. The primary patent relied on for each rejection teaches away from the modifications proposed in the Office Action.

A. Claims 1-2, 4-11, and 16-20 are not Obvious in view of Jiang and Aras

1. Jiang Teaches Away From the Proposed Combination

In the Office Action, claims 1-2, 4-11, 16-20, and 67-68 are rejected as being obvious in view of the combination of Jiang and Aras. Claims 1-2, 4-11, 16-20, and 67-68 are not obvious in view of the combination of Jiang and Aras at least because Jiang teaches away from such a combination.

Claims 1, 17, 19, 20, and 67-68 which are directed to systems and methods for providing a collaborative workspace for sharing data include, among other things, features directed towards the sharing of the data through a dedicated site. Jiang is directed towards and describes peer-to-peer conferencing techniques over the Internet and as such, because of its peer-to-peer approach does not show the sharing of conference data through a dedicated site. The substance of the Office Action concedes this matter. The Office Action states "Jiang fails to disclose such centralization with all shared communication from one participant to another passing through a central location." To alleviate this deficiency in Jiang, the Office Action relies on Aras and proposes to modify the techniques described in Jiang with "Aras's centralized system." Office Action, at page 4. As motivation for the proposed combination, the Office Action states "it would be advantageous and simplified not to have a peer-to-peer system as in Jiang as this would allow the central server to perform special and enhanced functions on the communication between participants." Office Action, pages 4-5. Such a combination and the supporting motivation for the combination, however, are contrary to the explicit teachings of Jiang.

For example, in connection with FIG. 2, Jiang states:

In this peer-to-peer paradigm, there is no host server,
and a number of clients 18a-18e are connected via a

number of channels 20a-20e in a variety of manners. The advantage with this paradigm is that there is not a central host server to connect the clients. As long as the clients utilize application programs allowing communication across networks between the clients, this network paradigm is feasible and desirable." Jiang, column 1, lines 22-41 (emphasis added).

The above quoted section clearly teaches away from the use of a central host server in favor of a peer-to-peer implementation. Moreover, the Summary of the Invention in Jiang states:

"a method for facilitating the creation and maintenance of network connections over an interconnected network for the purpose of facilitating the creation and participation of on-line conferences in accordance to the peer-to-peer paradigm is disclosed. . . . Once the conference is established, no data goes through the designated site or a central host. Data packets are directly sent to and received by the respective application program of each participant. . . . Another advantage of the present invention is that the established conference has no data going through a central host or a designated site." Jiang, column 2, lines 19-44 (emphasis added).

As such, Jiang further emphasizes that a central host or designated site is undesirable for conferencing participants. In addition, Jiang states that:

"A user, by using a web-browser and a helper-application program, may go to the virtual conference hall The host machine supporting the virtual conference hall does not actually host any conferences." Jiang, column 3, lines 1-7.

"Once the conference session is established, there is no traffic (data packets) going through the conference hall server machine (the host computer). The conference participants communicate directly to each other via their helper-applications." Jiang, column 5, lines 54-58 (emphasis added).

Therefore, contrary to the above-quoted assertion of the examiner, Jiang explicitly teaches that it would be advantageous and preferred to have a peer-to-peer system.

and teaches that to implement the Jiang system, communications between participants should not be routed through a central server. As such, Jiang limits its disclosure and systems and methods for conferencing described therein to peer-to-peer interconnections and as such, limits modifications to such systems and methods to be peer-to-peer.

2. *The Proposed Modification is Directly Contrary to Jiang*

The teachings in Jiang are directly contrary to the proposed modification in the Office Action. Jiang explicitly teaches, as quoted above, that once a conference is underway using peer-to-peer communications there is no data routed through the host. The modification suggested in the Office Action proposes to modify conferences that are underway using peer-to-peer communications to incorporate centralization by using the host to share data. This proposed modification is directly contrary to the preference explicitly stated in Jiang that no data goes through a central host or designated site once a conference is established.

The Office Action states that Figure 7 of Jiang shows a "dedicated site." Figure 7 of Jiang is titled "Conference Registration" and is one component of the systems and methods that are described in Jiang to use a host server. The description of those components in Jiang are limited to registering, creating, or joining a peer-to-peer interconnected conference, in which the conference is created and is operated to the exclusion of the host server. In Jiang, once a user selects to join a conference by interacting with the website of FIG. 7, an on-going peer-to-peer conference is joined by the user which is separately implemented from FIG. 7. The data shared in such conferencing cannot be shared through FIG. 7 of Jiang because conference communications are explained by Jiang to occur only through peer-to-peer connections in specific avoidance of any host server that may have displayed FIG. 7. To propose to modify the conferencing of Jiang using Aras to "not have a peer-to-peer system" is directly contrary with the teachings of Jiang.¹ Thus, Jiang clearly teaches away from modifying its peer-to-peer system to include "centralized features" as proposed by the examiner.

¹ Applicant is merely reiterating the interpretation followed in the Office Action to clarify its position. Such statements are not to be understood to mean that applicant is accepting or agreeing with such interpretation. Applicant's statements are not presented to provide comment in that respect.

3. *The Case Law is Consistent with Applicant's Remarks*

"It is improper to combine references where the references teach away from their combination." In re Grasselli, 713 F.2d 731, 643, 218 USPQ 769, 779 (Fed. Cir. 1983)." See MPEP 2145, page 2100-157. "We have noted ..., as 'a useful general rule,' that references that teach away cannot serve to create a prima facie case of obviousness." McGinley v. Franklin Sports, Inc., 262 F.3d 1339, 60 USPQ2d 1001 (Fed. Cir. 2001) (quoting In re Gurley, 27 F.3d 551, 31 USPQ2d 1130 (Fed. Cir. 1994)). "A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant ... [or] if it suggests that the line of development flowing from the reference's disclosure is unlikely to be productive of the result sought by the applicant." In re Gurley, 27 F.3d 551, 31 USPQ2d 1130 (Fed. Cir. 1994).

In addition, the above-quoted section of Jiang cannot be ignored in the examination of the application. "A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would teach away from the claimed invention." W.L. Gore & Assoc., Inc. v. Garlock, Inc., 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983)." See MPEP 2141.03, page 2100-122. "[I]t is impermissible within the framework of section 103 to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art." In re Wesslau, 353 F.2d 238, 147 USPQ 391 (CCPA 1965). "A reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention must be considered." Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986).

In this case, Jiang clearly states in a number of ways that "no data goes through the designated site or a central host," which is directly contrary to the modification proposed in the Office Action to route data through the designated site or central host." As such, claims 1, 17, 19, 20, and 67-68 are not obvious in view of the combination of Jiang and Aras at least because Jiang teaches away from such a combination. Claims 2, 4-11, 16, and 18, which depend from either base claim 1 or

17, are also not obvious at least for the reasons provided herein for the non-obviousness of claims 1 and 16 in view of Jiang and Aras.

B. Claims 12, 13, and 15 are not Obvious in view of Jiang, Aras, and Sammon

In the Office Action, claims 12, 13, and 15 are rejected as being obvious in view of the combination of Jiang, Aras, and Sammon. Claims 12, 13, and 15, which depend from base claim 1, are not obvious at least for the reasons provided herein for the non-obviousness of claim 1 in view of Jiang and Aras.

C. Claim 14 is not Obvious in view of Jiang, Aras, Sammon, and Pinard

In the Office Action, claim 14 is rejected as being obvious in view of the combination of Jiang, Aras, Sammon, and Pinard. Claim 14 incorporates all the features of claims 1 and 9 from which claim 14 previously depended. Accordingly, claim 14, is not obvious at least for the reasons provided herein for the non-obviousness of claim 1 in view of Jiang and Aras. In addition, claim 14 recites that the "calendar and event planner include a list of tasks," which is not shown or suggested by the Pinard as relied on by the examiner. Moreover, Pinard teaches the use of a web page or server which is again contrary to the direct teachings of Jiang. Accordingly, claim 14 is not obvious in view of the combination of Jiang, Aras, Sammon, and Pinard.

D. Other Remarks

As in the previous Amendment filed on February 26, 2004, which arguments applicant incorporates by reference, applicant maintains that Jiang does not show or suggest: (1) a transmitter for sending information about the existence of a dedicated site to secondary users that is nominated by the primary user ("Transmitter Feature") and (2) sharing of data in a collaborative workspace in accordance with a hierarchy ("Hierarchy Feature"). Furthermore, the absence of such features from Jiang is not alleviated by its combination with Aras. Accordingly, claims 1, 17, 19, 20, and 67-68 which include features directed towards the Transmitter Feature and the Hierarchy Feature are also allowable because such features are not show or suggested by the combination of Jiang and Aras.

E. Summary

Accordingly claims 1-2, 4-20, and 67-68 are not obvious in view of the cited patents are relied on the Office action. Reconsideration and allowance of claims 1-2, 4-20, and 67-68 are requested.

VII. Conclusion

For the foregoing reasons, applicant submits that all of the claims are patentable over the cited art and respectfully requests reconsideration and an early indication of allowance. The Examiner is invited to contact the undersigned if any additional information is required.

Respectfully submitted,

Date. December 23, 2004


Pejman Sharifi Reg. No. 45,097

WINSTON & STRAWN LLP
CUSTOMER NO. 28765

(212) 294-2603